

Message Text

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ACTION IO-14

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 9613

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

USMISSION GENEVA

AMEMBASSY HELSINKI

AMEMBASSY LISBON

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY MADRID

AMEMBASSY OSLO

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USEEC

USOECD

DEPARTMENT PASS TREASURY; COMMERCE FOR ARRELL;
LABOR FOR BLACKMAN

E.O. 11652: N/A

TAGS: EGEN, UN, ECOSOC, EINV

SUBJ: WORKING GROUP ON CODE OF CONDUCT FOR TRANSNATIONAL
CORPORATIONS (TNC'S): FEBRUARY 6-14 MEETING

1. SUMMARY: JUST-COMPLETED TWO-WEEK FEBRUARY SESSION OF WORKING GROUP ON A CODE FOR TRANSNATIONAL CORPROATIONS (TNC'S), SHORTENED BY SNOWSTORM AND COMPETING MEETING ON UN OVERVIEW MECHANISM, WAS GENERALLY UPBEAT, NON-CONFRONTATIONAL, BUT RESOLVED NONE OF THE FUNDAMENTAL PROBLEMS DIVIDING DELEGATIONS ON SUBSTANCE OF A CODE. G-77 REPRESENTATION FROM CAPITALS WAS SPARSE (THREE DELEGATIONS), BUT KEY FIGURE, BHATT OF INDIA, WAS PRESENT.

2. MAIN POSITIVE OUTCOME FROM U.S. VIEWPOINT IS APPARENT WILLINGNESS OF DEVELOPING COUNTRIES (BUT POSSIBLY NOT EAST EUROPEANS) TO ACCEPT IN PRINCIPLE A SECTION IN THE CODE (SECTION IV) DEALING WITH RESPONSIBILITIES OF GOVERNMENTS AND INDICATION OF POSSIBLE FLEXIBILITY ON SOME CONTENTIOUS SUBSTANTIVE AREAS. WORKING GROUP WILL BE MEETING AGAIN FOR TWO WEEKS IN LATTER HALF OF MARCH TO COMPLETE FIRST DISCUSSION OF MAJOR PARTS OF CODE, THEN HOLD A SECOND DISCUSSION BASED ON A PAPER TO BE PREPARED BY CENTRE FOR TRANSNATIONAL CORPORATIONS. CHAIRMAN OF WORKING GROUP (NIKLASSON, SWEDEN) THEN PLANS FOLLOWING MEETING TO DRAFT HIS OWN VERSION OF MAJOR POINTS IN A CODE, TO BE AVAILABLE SOMETIME DURING COMING SUMMER, BEFORE WORKING GROUP MEETS AGAIN. THIS TEXT LIMITED OFFICIAL USE

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WILL BE MORE THAN ANNOTATIONS, BUT SHORT OF AN ACTUAL TEXT OF CODE ARTICLES. END SUMMARY.

3. BECAUSE OF COMPLEXITY OF ISSUES, SEPTTEL BEING SENT ON WORKING GROUP DISCUSSIONS ON SECTIONS IIIA AND IVA OF CODE. REPORT ON OTHER DISCUSIONS FOLLOW.

4. MOST DELEGATIONS SEEMED TO AGREE WITH U.S. SUGGESTION THAT PREAMBLE AND OBJECTIVES SHOULD BE BRIEF AND NON-CONTROVERSIAL, PARTICULARLY SINCE DISCUSSION OF SUBSTANTIVE PARTS HAD NOT YET OCCURRED. FRENCH DELEGATE MENTIONED, HOWEVER, "PRINCIPLE" IN PREAMBLE MIGHT BE USEFUL TO ADD LATER ON AFTER SUBSTANTIVE DISCUSSION HAD TAKEN PLACE, AND INDIAN DELEGATE NOTED RELEVANCE OF REFERENCES TO NIEO AND CERDS AS THE CONTEXT IN WHICH CODE WOULD BE IMPLEMENTED. MAJOR PART OF DEBATE TURNED ON ISSUE OF "BALANCE" IN PREAMBLE IN REFERENCES TO POSITIVE AND NEGATIVE EFFECTS OF TRANSNATIONALS, WITH INDIAN DELEGATE IN PARTICULAR AGREEING TO "BALANCE," BUT EMPHASIZING PROBLEMS WITH TNC'S WHICH LED TO NEED FOR CODE. SOVIET DELEGATE MADE UNHELPFUL INTERVENTION OPPOSING BALANCE AND CONDEMNING TNC'S GENERALLY AS SOURCE OF ALL DIFFICULTIES.

5. CHAIRMAN NIKLASSON SUMMARIZED DEBATE BY REFERRING TO SEVERAL TOPICS -- DEVELOPMENT AND IMPORTANCE OF TNC'S, POSITIVE AND NEGATIVE EFFECTS OF TNC ACTIVITIES, NEED FOR CODE, AND REFERENCES TO INTERNATIONAL INSTRUMENTS -- AS BASIS FOR FURTHER WORK. HE ALSO NOTED AS RELEVANT FORMULA FOR OBJECTIVES FOR CENTRE ON TRANSNATIONAL CORPORATIONS AGREED TO AT SECOND TNC COMMISSION MEETING AT LIMA, WHICH FORMULA WAS CITED BY MANY DELEGATIONS PRESENT.

SECTION IIIB (ECOSOC, FINANCIAL, AND SOCIAL)

6. AFTER LENGTHY DISCUSSION BY G-77 REPRESENTATIVES OF SOVEREIGNTY ISSUE, CHAIRMAN SUGGESTED MAJOR DISTINCT ISSUE IN OWNERSHIP AND CONTROL SECTION (III-B-1) WAS THE LIMITED OFFICIAL USE

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ALLOCATION OF DECISION-MAKING POWER AMONG THE DIFFERENT ENTITIES OF THE TNC. G-77, LED BY INDIAN DELEGATE AND SUPPORTED BY SOVIETS, EMPHASIZED LOCAL CONTROL. SWEDISH DELEGATE ALSO NOTED INTEREST IN HOST COUNTRY REPRESENTATION ON BOARDS OF DIRECTORS.

7. U.S. AND OTHER DEVELOPED COUNTRY DELEGATES NOTED COMPLEXITY OF ISSUES INVOLVED, LINKS WITH POINTS IN SECTION IV-A ON CLARITY AND PREDICTABILITY OF LDC POLICY. ITEM ON JOINT VENTURES WAS VIEWED AS LEGITIMATELY ONE OF LOCAL PARTICIPATION BUT ONE THAT RAISED MORE GENERAL QUESTIONS OF BEST FORMS TO PROMOTE MAXIMUM ECONOMIC DEVELOPMENT AND WHICH COULD NOT BE CONSIDERED IN ISOLATION.

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8. DISCUSSION ON BALANCE-OF-PAYMENTS SECTION (III-B-2) FOLLOWED SIMILAR PATTERN, WITH DEVELOPING COUNTRIES STRESSING NEED FOR CONFORMITY WITH HOST COUNTRY BP POLICIES AND DEVELOPING COUNTRIES EMPHASIZING NEED FOR FLEXIBILITY AND LINKS WITH SECTION IV-A. IN HIS FINAL SUMMARY, CHAIRMAN STATED THAT A MERE PRINCIPLE STATING THAT TNC'S MUST CONTRIBUTE TO GP OBJECTIVES WAS "IMPOSSIBLE," THAT ISSUE WAS HIGHLY COMPLICATED AND MUST BE QUALIFIED BY SEVERAL CONSIDERATIONS.

9. DISCUSSION TERMINATED AT THIS POINT AND WILL BE PICKED UP IN MARCH SESSION. IT SHOULD BE NOTED, HOWEVER, THAT WEO (OECD) INFORMAL GROUP BRIEFLY DISCUSSED AMONG THEMSELVES ITEMS ON RBP'S, TRANSFER OF TECHNOLOGY, AND EMPLOYMENT AND LABOR, AND NOTED THAT AT THIS POINT REFER-

ENCES TO ONGOING WORK IN OTHER FORUMS WOULD BE SUFFICIENT. LAST ISSUE COMPLICATED BY ILO TRIPARTITE DECLARATION, WHICH ALREADY ADOPTED AND SHOULD BE ACCEPTABLE TO INCORPORATE IN THE CODE IN SOME FORM. U.S. ALSO VOLUNTEERED TO PREPARE PAPERS FOR MARCH ON CONSUMER AND ENVIRONMENTAL PROTECTION SECTIONS OF IIIB.

10. FUTURE WORK. AFTER PRIOR CONSULTATION AMONG KEY DELEGATIONS PANAMANIAN REPRESENTATIVE PROPOSED IN FINAL PLENARY MEETING THAT TNC CENTRE PREPARE PAPER WHICH WOULD BE USED AS BASIS FOR FURTHER DISCUSSION DURING MARCH 20-31 SESSION OF WORKING GROUP. TEXT WOULD BE INFORMAL AND BE BASED ON RESULTS OF JUST-COMPLETED DISCUSSIONS IN WORKING LIMITED OFFICIAL USE

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GROUP ON PREAMBLE AND OBJECTIVES AS WELL AS SECTIONS III AND IV (RESPONSIBILITIES OF TNC'S AND GOVERNMENTS). TEXT WOULD INCLUDE ANY POINTS OF AGREEMENT AND ALSO INDICATE "CHECKPOINTS" FOR DISCUSSION WHERE ALTERNATIVE APPROACHES PROPOSED (WITHOUT IDENTIFYING SOURCES). IN ESSENCE, PAPER WOULD GO BEYOND ANNOTATIONS BUT BE SOMETHING LESS PROPOSED TEXT OF ARTICLES OF AN AGREEMENT.

11. SECRETARIAT DRAFT ON III AND IV WILL NOT BE ISSUED UNTIL FULL DISCUSSION OF THESE SECTIONS IS COMPLETED IN MARCH MEETING, BUT SECTION I DRAFT WILL BE AVAILABLE EARLY IN MARCH MEETING. IN PRIVATE SESSION WITH WORKING GROUP CHAIRMAN, TNC DIRECTOR SAHLGREN AND CANADIAN, INDIAN, AND PANAMANIAN DELEGATES, U.S. DELEGATION MADE IT CLEAR THAT IF CENTRE'S DRAFT DID NOT SEEM USEFUL BASIS FOR DISCUSSIONS WHEN IT WAS ISSUED, HE WOULD FEEL FREE TO REJECT IT.

12. SMALL CONTACT GROUP OF SAME DELEGATIONS ALSO AGREED THAT CHAIRMAN COULD START DRAFTING TEXT BASED ON MARCH DISCUSSIONS WHICH HE COULD ISSUE SOMETIME AFTER MEETING BASED ON HIS OWN AUTHORITY WHICH WOULD ATTEMPT TO CHART MIDDLE COURSE ON ISSUES UNDER DISCUSSION. HOWEVER, THIS PROPOSAL WAS NOT DISCUSSED IN FULL GROUP MEETING AND HENCE HAS NOT RECEIVED APPROVAL BY ALL PARTICIPANTS.

13. GENERAL FEELING, INCLUDING CHAIRMAN'S, WAS THAT GROUP SHOULD CONTINUE AT MAY MEETING TO AVOID DISCUSSION OF SECTIONS II (DEFINITION OF A TNC), V (LEGAL NATURE AND SCOPE OF A CODE), AND VI (IMPLEMENTATION).

14. FOURTH SESSION OF UN TNC COMMISSION. AUSTRIA HAS CONVEYED TO SECRETARIAT AN INVITATION TO UNTNC TO HOLD ITS MAY SESSION IN VIENNA. PRIVATE DISCUSSIONS REVEALED THAT PROPOSAL, IF MADE, WOULD PROVOKE MIXED REACTION, PARTICULARLY AMONG SOME DEVELOPING COUNTRIES

WHOSE REPRESENTATION IS USUALLY COVERED BY NEW YORK
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MISSIONS. OTHERS WERE OPEN-MINDED, PARTICULARLY IF IT
WERE CLEAR THAT AUSTRIANS WOULD BE BEARING FULL BURDEN
OF EXTRA COSTS TO SECRETARIAT.

15. FEASIBILITY STUDY ON CENTRE'S INFORMATION SYSTEM.
CANADA DELEGATE NOTED IN WEO CONTACT GROUP THAT IF CENTRE'S
REVISED STUDY NOT AVAILABLE BY OPENING OF MARCH WORKING
GROUP SESSION, IT MAY INSIST ON DISTRIBUTING TO ALL DELE-
GATIONS ITS OWN COMMENTS ON INFORMATION SYSTEM, ALREADY
GIVEN TO CENTRE EARLIER. U.S. NOTED THIS HAD IMPLICATIONS
FOR OTHERS WHO HAD ALSO MADE COMMENTS AND ASKED THAT WEO
GROUP DISCUSS THIS AT ITS MARCH SESSION. (SEE BELOW.)

16. OECD (WEO) INFORMAL CONTACT GROUP MEETINGS. IT WAS
AGREED TO MEET AT 3:00 P.M. ON SUNDAY, MARCH 19, AT NEW
YORK EEC MISSION. U.S. WILL CHAIR MEETING, BUT URGENT
ORDER OF BUSINESS IS TO ELECT NEW CHAIRMAN TO REPLACE DE-
PARTING CHAIRMAN SANDERS OF THE NETHERLANDS. VIEW WITHIN
U.S. DELEGATION IS THAT COLLI OF CANADA WOULD BE BEST CAN-
DIDATE FOR THIS POSITION.
LEONARD

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